

U.S. Application Serial No. 10/529,134
Attorney Docket: 47623-0006
Response to Final Office Action of July 3, 2006

REMARKS

This Amendment and Response is in response to the Final Office Action dated July 3, 2006 wherein the Examiner

(i) rejected claims 1, 2, 4, 6-18 under 35 U.S.C. § 103(a) as being unpatentable over Kirchen (US Patent No. 5,975,820) ("Kirchen") in view of Mizuno et al. (US Patent No. 6,560,819) ("Mizuno").

(ii) indicated that the Applicants have not addressed the issue with the German reference (DE 8113638) in the IDS, and thus has not considered that reference.

Applicants have thoroughly reviewed the outstanding Final Office Action including the Examiner's remarks and the references cited therein. The following remarks are believed to be fully responsive to the Final Office Action and, when coupled with the amendments made herein, are believed to render all claims at issue patentably distinguishable over the cited references.

All the changes are made for clarification and are based on the application and drawings as originally filed. It is respectfully submitted that no new matter is added. Applicants respectfully request reconsideration and allowance of claims 1, 4 and 6-18 in light of the above amendments and the following remarks.

Rejections under 35 U.S.C. § 103

The Examiner has rejected claims 1, 2, 4, 6-18 under 35 U.S.C. § 103(a) as being unpatentable over Kirchen in view of Mizuno. Applicants respectfully traverse such rejections for the reasons set forth below.

In the Final Office Action, the Examiner did not address the limitations described in claim 2. Applicants have amended independent claims 1, 4 and 15 to include the limitations of claim 2, i.e., the distance between the wall of the anchor foot and the center axis is slightly less than, and at least one radial distance between an outer edge of one spring arm and the center axis is greater than, half of the diameter

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of the bore in the support part. There is no discussion, disclosure or suggestion in either Kirchen or Mizuno of this feature of the claimed invention.

Further, Applicants reiterate that Kirchen is not combinable with Mizuno since Kirchen does not suggest the teachings of Mizuno and Mizuno does not suggest the teachings of Kirchen. See Ashland Oil, Inc. v. Delta Resins & Refractories, Inc., 776 F.2d 281, 227 U.S.P.Q. 657 (Fed. Cir. 1985) ("To combine references (A) and (B) properly to reach the conclusion that the subject matter of a patent would have been obvious, case law requires that there must be some teaching, suggestion, or inference in either reference (A) or (B), or both, or knowledge generally available to one of ordinary skill in the relevant art that would lead one skilled in the art to combine the relevant teachings of references (A) and (B). Consideration must be given to teachings in the references that would have led one skilled in the art away from the claimed invention. A claim cannot properly be used as a blueprint for extracting individual teachings from references."). As previously discussed, while both references relate to grommets, there is no teaching or suggestion in either reference that would lead one skilled in the art to combine the two references. These references propose two different solutions to the same problem – the problem being that prior art grommets cannot be effectively secured to members of varying thickness (See Kirchen, column 3, lines 5-8, and Mizuno, column 1, lines 35-50). Kirchen proposes the use of "upper fingers" and "lower fingers" to provide "a range of increased thicknesses" of the member (Kirchen, column 3, lines 5-8). Mizuno, in contrast, proposes forming its disclosed "latch pawls 5" in specific shapes, including "stepped" form, to address this problem (Mizuno, column 1, lines 35-50 and column 3, lines 40-43).

In the Final Office Action, the Examiner argues that the combination of Kirchen and Mizuno is obvious because skilled artisans would have considered both references when faced with the same problem. Applicants disagree. Each of Kirchen and Mizuno proposes a complete, but different, solution to the same problem. A skilled artisan, when considering these two references, would view these

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references as alternative solutions to the problem faced. It is well settled that the teaching or suggestion to make the claimed combination must be found in the prior art, and not in Applicants' disclosure. In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). Because each of the prior art references proposes a complete solution to the problem, there can be no motivation to further address this same problem by utilizing the teachings of another reference. Without a motivation to combine, it is well settled that these references cannot be properly combined to maintain the Examiner's § 103 rejection.

Applicants' submit that the Examiner is using improper hindsight reasoning by utilizing the teachings in the present application to provide the motivation to combining Kirchen with Mizuno. Evidence of this improper hindsight reasoning is apparent when considering the Examiner's discussion regarding the step surfaces being offset at page 4 of the Final Office Action. Neither Kirchen nor Mizuno discuss, disclose or describe the offset teaching of the present Application. The Examiner submits, without any support whatsoever in either Kirchen or Mizuno, that this offset would be obvious to the skilled artisan once Kirchen and Mizuno are combined. However, to the extent the Mizuno reference teaches step surfaces in Fig. 7B, it is clear that the step surfaces are aligned with one another and not "offset" as provided for by the claimed invention. By utilizing the teachings in the present Application of a plurality of spring arms with offset step surfaces to provide the motivation to combine Kirchen and Mizuno, the Examiner has incorrectly applied the obviousness standard and thus has failed to establish a *prima facie* case of obviousness.

Furthermore, even if combined, the combination of Kirchen and Mizuno fails to anticipate the invention as claimed by Applicants. The claims provide that the step surfaces on the short spring arms and the long spring arms are offset relative to one another such that the step surfaces on the short and long spring arms alternate as the panel thickness increases. As discussed above, the combination of Kirchen and Mizuno would not disclose offset step surfaces. Further, in the Final Office Action, the Examiner did not address the limitations described in claim 2. Applicants have amended independent claims 1, 4 and

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15 to include the limitations of previously presented claim 2, i.e., the distance between the wall of the anchor foot and the center axis is slightly less than, and at least one radial distance between an outer edge of one spring arm and the center axis is greater than, half of the diameter of the bore in the support part. There is no discussion, disclosure or suggestion in either Kirchen or Mizuno of either of these features of the claimed invention.

Conclusion

In light of the above remarks, it is respectfully submitted that Applicants have responded in a fully satisfactory manner to all matters at issue in this Application, and that this Application is now in condition for allowance. In this regard, Applicants have made every effort to comply with the requirements set forth in the Final Office Action as well as the statutory requirements. Accordingly, Applicants respectfully request that the Examiner allow the pending claims and pass the Application to issue. If the Examiner believes that personal communication will expedite prosecution of this application, he is invited to telephone the undersigned at (248) 433-7570.

Applicants believe there are no fees due for this document, however, if any fees are due, the Patent Office is authorized to charge or refund any fee deficiency or excess to Deposit Account No. 04-1061 in the name of Dickinson Wright PLLC.

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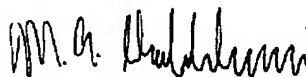
Prompt and favorable consideration of this response is respectfully requested.

Respectfully submitted,

Dickinson Wright PLLC
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Date: September 5, 2006

By: _____



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